

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

James G. Blakely, #255623,)	
a/k/a James Gatewood Blakely,)	C/A No. 5:12-1214-MBS-KDW
a/k/a Jimmy G. Blakely,)	
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
Dr. Moore; Nurse Enloe, A.; Warden)	
McCall; A/W S. Claytor; Dr. Amonitti, G.;)	
Warden McCabe,)	
)	
Defendants.)	
_____)	

Plaintiff James G. Blakely is an inmate in custody of the South Carolina Department of Corrections. Plaintiff currently is housed at the Lieber Correctional Institution in Ridgeville, South Carolina. At the time of the underlying events, Plaintiff was housed at Perry Correctional Institution in Pelzer, South Carolina.

Plaintiff, proceeding pro se, filed a complaint on May 8, 2012, alleging that his walking cane was confiscated and replaced with a walker, but that he was given no instructions on how to use the walker. Plaintiff alleges that he slipped and fell down some wet stairs leading from the shower area while using the walker. According to Plaintiff, he was denied medical care, placed in administrative segregation, and subsequently transferred to Lieber Correctional Institution in an attempt to prevent him from obtaining evidence regarding the fall. Plaintiff alleges violations of his rights under the Eighth and Fourteenth Amendments. Compl., ECF No. 1, 3-13. Plaintiff brings this action pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pretrial handling. The Magistrate Judge

reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915, 1915A, and the Prison Litigation Reform Act. On June 4, 2012, the Magistrate Judge filed a Report and Recommendation in which she noted that Plaintiff previously filed a civil action against Defendants Enloe, McCall, and Claytor (also identified as “Clayton”). See Blakely v. McCall, C/A No. 5:12-410-MBS-KWD. Because the Blakely v. McCall action is duplicative, the Magistrate Judge recommended that Defendants Enloe, McCall, and Claytor be summarily dismissed from the within action. The Magistrate Judge further determined that Plaintiff failed to state a cognizable § 1983 claim against Defendant Amonitti because he alleged no facts to demonstrate that this Defendant was in any way deliberately indifferent to Plaintiff’s health, medical needs, or safety. Accordingly, the Magistrate Judge recommended that Defendant Amonitti be summarily dismissed from the case. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs with the Magistrate Judge’s recommendation and incorporates the Report and Recommendation herein. Plaintiff’s complaint is summarily dismissed without prejudice as to Defendants Enloe, McCall, Claytor, and Amonitti. The

case is recommitted to the Magistrate Judge for additional pretrial handling..

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina

August 20, 2012